

In The Matter Of:
United States vs.
PFC Bradley E. Manning

Vol. 37
August 19, 2013
UNOFFICIAL DRAFT - 08/19/13 Afternoon Session

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VOLUME XXXVII
IN THE UNITED STATES ARMY

UNITED STATES
VS.
MANNING, Bradley E., Pfc. COURT-MARTIAL
U.S. Army, xxx-xx-9504
Headquarters and Headquarters Company,
U.S. Army Garrison,
Joint Base Myer-Henderson Hall,
Fort Myer, VA 22211

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The Hearing in the above-titled matter was
continued on Monday, August 19, 2013, at 1:06 p.m., at
Fort Meade, Maryland, before the Honorable Colonel
Denise Lind, Judge.

DISCLAIMER

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1 **APPEARANCES:**

2
3 **ON BEHALF OF THE GOVERNMENT:**

4 MAJOR ASHDEN FEIN

5 CAPTAIN JOSEPH MORROW

6 CAPTAIN ANGEL OVERGAARD

7 CAPTAIN HUNTER WHYTE

8 CAPTAIN ALEXANDER van ELTEN

9
10 **ON BEHALF OF THE ACCUSED:**

11 DAVID COOMBS

12 CAPTAIN JOSHUA TOOMAN

13 MAJOR THOMAS HURLEY

1 PROCEEDINGS

2 THE COURT: All rise.

3 THE COURT: Please be seated. The court is
4 called to order. Major Fein, please account for the
5 court?

6 MR. FEIN: Yes, ma'am. All parties in the
7 court at the last recess are again present with the
8 following changes: I am present on the record.

9 THE COURT: All right. I've been advised
10 that there are several Appellate exhibits that have
11 been added to the record; is that correct?

12 MR. FEIN: That is correct, ma'am. Also,
13 as of 12:53 this afternoon there are 18 members of the
14 media at the media operations center, one stenographer
15 at the media operations center, one member of the media
16 in the panel box, 21 spectators in the courtroom and no
17 spectators in the overflow trailer, although it will
18 remain available today.

19 Ma'am, Appellate Exhibit 660 is a CD
20 containing panel member documents. The documents it
21 contains are the original questionnaires, the

1 supplemental questionnaires and the publicity order
2 acknowledgments for two different panels, the panel
3 that was selected in 2012 and the panel that was
4 selected in 2013 and that's Appellate Exhibit 660.

5 Your Honor, Appellate Exhibit 661, A through
6 E -- and I'll go through each one -- are E-mails
7 between the parties and the court and there are
8 different types of emails.

9 The first is 661 alpha. That is E-mails from
10 both parties to the Court unclassified as of 18 August,
11 2013. Each these are separate CDs or DVDs.

12 Appellate Exhibit 661 bravo are government
13 ex parte E-mails to the court as of 18 August, 2013.

14 Appellate Exhibit 661 Charlie are Defense
15 ex parte E-mails to the court as of 18 August, 2013.

16 Appellate Exhibit 661 delta is a CD
17 containing E-mails from the parties to the court and
18 these are classified E-mails, secret level, as of 18
19 August, 2013.

20 and Appellate Exhibit 661 echo are government
21 classified ex parte E-mails to the court as of 18

1 August, 2013.

2 Also, Your Honor, Appellate 662 is the joint
3 final judicial notice accounting dated 16 August, 2013.

4 And Appellate Exhibit 663 is the government's
5 notification and review of MRE 505G2 and 505I
6 redactions from all the previous filings. In that
7 filing, Your Honor, the United States lists all the
8 different filings it has had in this case and that two
9 different trial counsel review each of those filings
10 and the underlying information to validate and certify
11 that none of that information was elicited from any of
12 the government's witnesses or from any witness by the
13 government on any portion of the trial.

14 THE COURT: Thank you. Defense, any issues
15 with the final judicial notice document?

16 MR. COOMBS: No, Your Honor.

17 THE COURT: I believe that you advised the
18 court of the Defense advised the court that you want to
19 court to consider only those Defense portions of the
20 judicial notice as we went along the way that are
21 actually introduced into evidence; is that correct?

1 MR. COOMBS: This is correct, Your Honor.

2 THE COURT: All right. Before we begin
3 today, I do want to just go over briefly a little
4 change in the court's proposed way ahead. Today, we
5 will be having sentencing argument by counsel followed
6 by PFC Manning and I having a discussion on his post
7 trial appellant rights.

8 My initial plan as I announced at the last
9 session is I will go into deliberations immediately
10 after this session. I have been going over with the
11 paralegals and court reporters all of the exhibits that
12 have been introduced into this case as well as all of
13 their enclosures which I need to finalize to determine
14 which would be under seal and for what reasons and that
15 process is taking a little longer than anticipated.

16 So the way ahead for the court is I intend
17 to go through today's session. At that point, I will
18 recess the court and finish the administrative matters
19 that I need to address with the court reporter on all
20 of these exhibits and take as long as that takes and we
21 will reconvene tomorrow and I will close the court for

1 deliberations at 09:00 tomorrow for as long as I need
2 to deliberate. And, once again, the court will ensure
3 that there's enough notice, once I reach a decision,
4 that the public and whoever wants to be here for that
5 decision will have a enough notice in time to be here.

6 Does either side have any objection to the
7 court's way ahead?

8 MR. COOMBS: No, Your Honor.

9 MR. FEIN: No, ma'am.

10 THE COURT: Is there anything else we need
11 to address before we begin sentencing argument?

12 MR. FEIN: No, Your Honor.

13 MR. COOMBS: No, ma'am.

14 THE COURT: Proceed.

15 MR. MORROW: Your Honor, this case started
16 three months ago with the opening statements of the
17 parties. The United States has told you that we're
18 here today because of PFC Manning's arrogance in access
19 of the SIPRNET and the government trusted that he would
20 protect classified information.

21 Your Honor, if there's anything you take

1 away during this sentencing deliberation is this.

2 There may not be a soldier in the history of the United
3 States Army who displayed such an extreme disregard for
4 the judgment of the officers appointed above him and
5 the orders of the President of the United States.

6 He believed that he, among all the users of
7 classified information systems in the United States
8 government, was knowledgeable and intelligent enough to
9 decide what information deserved protection and what
10 information didn't.

11 In the process, he created a grave risk of
12 harm to national security due to the volume of
13 information he disclosed. He disrupted ongoing
14 military and diplomatic missions and he endangered the
15 well-being of innocent civilians and soldiers.

16 The United States asks you to sentence PFC
17 Manning to forfeit all pay allowances, to pay the
18 United States a fine of \$100,000, to be reduced to
19 Private E1, to be confined for no less than 60 years
20 and to be dishonorably discharged from the service.

21 At least six years is justified in this

1 case, Your Honor. The United States does not make this
2 request lightly. PFC Manning is young and he pled
3 guilty to some lesser included offenses. But
4 considering those factors and the Defense case
5 extenuation of mitigation, PFC Manning's actions, PFC
6 Manning intent within the course of his combat and
7 deployment to Iraq, his repeated abuse and his access
8 to the SIPRNET while on duty, all those factors are
9 egregious enough to warrant 60 years. [Inaudible]
10 means something, Your Honor. He's been convicted of
11 serious crimes, he betrayed the United States and for
12 that betrayal is deserves to spend the majority of his
13 remaining life in confinement.

14 Your Honor, the United States would like to
15 start by talking about his own sentencing case. You
16 heard from 14 witnesses. Senior officers in the
17 military, senior officials from the Department of State
18 and senior department Defense civilians. You didn't
19 haven't hear any personal animosity for the accused.
20 They didn't know him personally. They offered their
21 observations, they offered their opinions. They stayed

1 within the lanes of their expertise. They weren't
2 hyperbole. They were experts and senior officials with
3 firsthand knowledge of the steps the government took to
4 mitigate harm. They described how the U.S. moved
5 heaven and earth in some cases, expended never before
6 seen resources to mitigate the impact of the
7 disclosures.

8 They personally observed damage and they
9 provided the court with concrete examples of the impact
10 directly resulting from and relating to PFC Manning's
11 crimes.

12 As you deliberate in sentencing, keep in mind
13 the stark difference between the evidence provided to
14 you by the government, the United States, and the
15 evidence provided to you by the Defense. This is a
16 case about PFC Manning, Your Honor. The army is not on
17 trial. The command is not on trial. Mr. Adkins is not
18 on trial. Behavioral health is not on trial. None of
19 those entitles are individuals are responsible for what
20 PFC Manning did. I'll go back to this later, Your
21 Honor, but think about the time line of evidence.

1 Think about how PFC Manning started using the Wikileaks
2 most wanted list in November 2009. PFC Manning is
3 solely responsible for his crimes. PFC Manning is
4 solely responsible for the impact. He was a determined
5 insider who knowingly took advantage and exploited an
6 imperfect system with vulnerabilities. Every day at
7 his SIPRNET computer was another day to stick his
8 finger in the eye of the classification system.

9 The government sentencing case began with
10 Brigadier General Retired Carr who was directed by the
11 Secretary of Defense to stand up the information of the
12 review task force. That task force operated for over
13 ten months and every document was compromised by PFC
14 Manning. Through its review of the CIDNE A and CIDNE I
15 SigActs, the task force identified hundreds of
16 individuals at risk of retaliation for cooperating with
17 U.S. forces.

18 He talked about the moral method of duty to
19 warn those individuals and the impact of [inaudible]
20 would have on our ability to interact with the local
21 populace and he also talked about how the disclosed

1 impacted our relationships with allies.

2 On that same day, Mr. Kirchhofer also
3 testified and Mr. Kirchhofer was a member of the senior
4 executive service who was assigned to be the IRTF's
5 deputy. He talked about the amount of resources
6 devoted to the IRTF's operations, 300 personnel
7 administration through agencies and departments across
8 government. He estimated 125 personnel, people, at any
9 given time. Line 24-7 for the first two months because
10 of the volume of material that needed to be reviewed.
11 He had a background in budgets. He testified that the
12 RTF cost over \$6 million dollars to operate.

13 Both General Carr and Mr. Kirchhofer
14 testified that the IRTF was absolutely necessary to
15 mitigation whatever potential damage the government
16 could do within reason, not only for ourselves but for
17 our allies and both explained how hundreds of U.S.
18 government employees were pulled from their day jobs in
19 the military, intelligence and diplomatic communities.
20 I'm sure that whatever harm that could be mitigated was
21 mitigated.

1 The first State Department witness, Your
2 Honor, was principal deputy assistant secretary Dibble
3 (phonetic) from the Bureau of Near Eastern Affairs.
4 She described her horror and disbelief when she heard
5 that the purported line of communication were available
6 for the world to see. She described out trust and
7 credibility with foreign interlocutors were key
8 elements of our ability to conduct diplomacy and
9 further U.S. national interests. And in closed
10 session, she discussed the impact of the mission to the
11 Department of State in the near east and specifically
12 with regard to Iran, Lebanon and Libya.

13 And you also from PDAS Feeley from the
14 Bureau of Western Hemisphere Affairs who [inaudible]
15 same sentence on the value of trust and credibility
16 with respect to conducting and he also testified that
17 he personally observed impact to our relations with
18 Latin American as a result of the disclosures.

19 He described in detail why our relations
20 with countries in Latin America were critical to U.S.
21 national security interests and in closed session he

1 offered his opinions and he identified the impacts he
2 observed in great detail.

3 Ms. Swort (phonetic) testified that the
4 message of diplomacy was created in order to provide
5 other organizations and specifically Department of
6 Defense access to cable traffic would be valuable to
7 her work and she related information sharing within the
8 U.S. government was negatively impacted by the loss of
9 NCE after it was pulled from the SIPRNET.

10 You heard from Ambassador Kozak, who was
11 the head of the persons at risk working group,
12 Department of State, charged with identifying those
13 persons whose names or identities were comprised by the
14 release of the purported cables. He spent his life
15 working on issues related to human rights and democracy
16 and he described the nature of having to review,
17 identify, notify and assist those impacted individuals.

18 In this case, we aren't talking about heads
19 of state or foreign ministers. These were people at
20 risk of injury, incarceration or death as a result of
21 the release of their names. Democracy and human rights

1 activists who in some cases were not living in the
2 location where it was possible for the Department of
3 State to verify them without increasing the risk.

4 Ambassador Kozak testified that in decades
5 working for the Department of State, he had never seen
6 an effort to reach out to contacts because of something
7 the U.S. government did.

8 The last State Department witness, Your
9 Honor, was Under Secretary of State For Management
10 Kennedy. He testified that the anticipated release of
11 cables and the release of purported cables was treated
12 as a crisis by the department because of the scope of
13 the impact. In 40 plus years he had never seen a
14 crisis that encompassed so many personnel. Every
15 geographic bureau was affected as well as many of the
16 functional [inaudible]. Thousands of employees across
17 the department viewed cables to determine whether it
18 was information would impact operations or would
19 otherwise be mitigated and this included ambassadors
20 and chiefs of mission.

21 Under Secretary testified diplomatic

1 relations were directly impacted following the
2 releases. There was an observable chilling effect on
3 our relations with foreign interlocutors.

4 Under Secretary Kennedy really drove home
5 that the impact was not limited to areas identified by
6 and PDAS Feeley. PFC Manning's crimes affected
7 relations everywhere.

8 You heard from General Nagata who was the
9 deputy chief of operations for the Officer of Defense
10 representative of Pakistan from 2009 to 2011. During
11 direct, he described in great detail how our
12 relationship with Pakistan was important to U.S.
13 national security. And there may not be an individual
14 in government that is more knowledgeable about the
15 subject that he was.

16 In fact, he described how he extended his
17 assignment by a year because he believed the mission
18 was so important. And he talks about the upper
19 trajectory of this relationship, the relationship with
20 Pakistan and the military before the Wikileaks release.
21 It the open session, he related he personally observed

1 impact to the mission of the ODRP as a result of the
2 disclosure of the purported cables and in closed
3 session he identified the impact in several distinct
4 areas.

5 On that same day you heard from Colonel
6 Chesnutt who was the incoming senior defense attache in
7 Pakistan in November 2010 and he testified that almost
8 immediately after settling in purported State
9 Department cables were released in the Pakistani news
10 and the U.S. news. Colonel Chesnutt testified to the
11 impact of the releases on the intense attache
12 operations in Pakistan and these were personal
13 observations relating to the impact he specifically
14 described in the closed session. This was separate
15 from the impact described by General Nagata.

16 You heard from Mr. McCarl. He testified as
17 an expert in the use -- adversaries use of IEDs and he
18 described how his organization, JIADO, spent almost 900
19 manhours reviewing a subset of compromised SigActs to
20 determine the operational security loss to the
21 government as a result of these releases.

1 In closed session, he described some of
2 findings by JIADO and offered his opinion on how the
3 adversary can use the release cables or released
4 information.

5 Mr. Pearson was an Arabic linguist and
6 computer expert who had worked in a variety of
7 positions willing throughout his career and he work at
8 JIADO during the timeframe of the disclosures. And as
9 you heard the testimony, JIADO was divided into three
10 missions, attacking the network, the teaming device and
11 training the force and he worked on attacking the
12 network which involved the use of his Arabic language
13 skills and his computer background. He described his
14 observations on how Jihadists use the Internet in
15 closed session.

16 Commander Aboul-Enein testified as an
17 expert in Al Qaeda terrorism and ideology and he
18 described the use of propaganda by Al Qaeda to recruit
19 a team, financing and incite followers. He described
20 how the compromised information was used by Al Qaeda in
21 propaganda videos and specifically how Al Qaeda edits

1 videos to achieve effect.

2 He also described how the comprised
3 material and specifically the SigActs was of interest
4 to Al Qaeda and he testified that it was his opinion
5 that Al Qaeda would use SigAct information in their
6 operations and that they had the capacity to do so.

7 The government ended its sentencing case
8 with two witnesses, Admiral Donegan and Major General
9 McKenzie. Admiral Donegan was the director of
10 operations for central command for two years, a J3,
11 from 2010 to 2012 and he testified regarding the J2 and
12 J3 crisis action team.

13 Personnel from the watch team at CentCom
14 called the review compromised information for
15 operations and locations and he testified he personally
16 issued the duty to warn [inaudible] to units in Iraq
17 and Afghanistan and he described why those were
18 necessary similar to General Carr.

19 In an open session, he talked about why the
20 crisis action team and the duty to warn missions
21 impacted operations of CentCom and also interact with

1 Afghanistan.

2 The crisis action team, the duty to warn
3 missions were consuming, they were additive and the
4 [inaudible] universally acknowledged as the most active
5 area in the world operational and militarily. These
6 impacts certainly tricked down to the units on the
7 ground. They actually had to make the hard decision
8 whether to notify individuals who had been identified
9 in the SigActs.

10 In the duty warn missions were conducted
11 over the course of ten months. As you know, in closed
12 session he also discussed impact with CentCom
13 operations in two other countries as well.

14 The government's last witness, Your Honor,
15 was Major General McKenzie who was director of strategy
16 plans and possible [inaudible] U.S. Central, J5. He
17 was a senior official who developed the overall
18 strategic campaign plan for headquarters working with
19 nations across the CentCom area of responsibility. He
20 testified about building relationships with foreign
21 partners, why that's important to U.S. national

1 security and how traveling on personal interactions
2 with foreign officials contributed to our planning
3 efforts. He ultimately testified that he personally
4 observed an impact to CentCom's future planning efforts
5 and relationships with foreign partners as a result of
6 the release of the purported cables. In closed session
7 he described in very specific detail what he meant by
8 that.

9 Again, Your Honor, it wasn't personal for
10 any of these witnesses. They were honest and
11 matter-of-fact.

12 When it was appropriate, they acknowledged
13 the complexity of the region in which they were
14 working, their region of expertise. They acknowledged
15 when other factors might have played a part. They were
16 credible, they were knowledgeable experts and senior
17 officials who spent their career serving the nation
18 honorably and what you heard from each of them in the
19 open and closed sessions were examples of concrete
20 identifiable harm to the mission of a particular
21 entity, the national security of the United States, and

1 when they were discussing the risk of harm, they
2 articulated that risk with great specificity.

3 With respect to the government's sentence
4 in case, the court learned that there was a serious and
5 substantial risk of harm caused by PFC Manning and that
6 may go without saying based on the volume of
7 information released.

8 What the court also learned that it had
9 initially heard before was how far reaching the actual
10 impact was. The disclosures were felt in the
11 operational and strategic levels militarily and
12 diplomatically, serious impacts to bilateral military
13 relationships and to diplomatic relationships. It
14 wasn't a greater good, it wasn't good at all. It was
15 destructive. The disclosures damaged our reputation in
16 the world and the ability of our representatives to do
17 their jobs, the underlying trust and confidence built
18 over decades. And once you disclose information as
19 indiscriminately as PFC Manning did, there's no telling
20 where that information goes.

21 As you heard from Ambassador Kozak, the

1 Department of State reacted before the release of
2 anything because, in his mind, any foreign intelligence
3 service worth his salt would have information almost
4 immediately after the government lost possession and
5 that's true of the enemy as well. In this case,
6 though, we don't to speculate. The information was
7 found in the digital media of Osama Bin Laden.

8 Now, Your Honor, contrast what you heard in
9 the government's sentencing case with the sentencing
10 case of the Defense. When I talk about the defense
11 sentencing case, Your Honor, I'm referring to the 2nd
12 to the army 1516 that's at issue.

13 Through testimony the court heard, the army
14 1516 was an administrative investigation across the
15 army about the way things were doing done, where the
16 army can do things better, what policies and procedures
17 need to be changed going forward.

18 The interviews of the command took place in
19 January of 2011, more than six months after PFC
20 Manning's arrest. The witnesses did not have the
21 benefit of any evidence in this case. And importantly,

1 though, the focus was on the second brigade 10th
2 Mountain in the aftermath of Wikileaks and the
3 suspicion that the Army may have played -- the command
4 may have played some part in setting the conditions for
5 PFC Manning's crimes. The army of command is not
6 responsible, Your Honor, and you heard in great detail
7 why that wasn't the case.

8 You heard testimony from multiple members
9 of PFC Manning's unit, professional soldiers who put
10 great thought in what they did. They had multiple
11 combat deployments and the decisions they made were
12 influenced by the facts on the ground, facts known to
13 them at the time, their experience and best judgment.
14 I started to talk about the lieutenant commander. You
15 heard about the process of deploying soldiers. And you
16 also heard his reasoning with respect to the rear
17 detachment operations. They left a strong leadership
18 in the rear, but that the bulk of leaders was forward
19 so that soldiers could be supervised down range and
20 when setting up operations in the rear, he ensured that
21 new arrivals [inaudible] and troublemakers were

1 separated in different battalions.

2 Within the first couple of months of
3 deployment Colonel Miller ordered a one hundred day
4 survey of his brigade because of three suicides. He
5 wanted to assess the climate and use facilitators to
6 see if there was any soldiers who stood out as needing
7 help. The idea was to connect the soldiers to the
8 commission so that they would be less likely to harm
9 themselves or someone else.

10 It was about identifying soldiers who might
11 need behavioral health treatment and this is important,
12 Your Honor. This was a novel approach, unheard of in
13 the army, something designed to find the PFC Mannings
14 and he still didn't bring them to the attention of the
15 command. And the United States interviewed with
16 Colonel Miller by asking him about his personal
17 interaction. No red flags, no reason for concern. PFC
18 Manning seems squared away and he testified
19 unequivocally that he felt no pressure to deploy a
20 soldier that was not deployable and no pressure to
21 leave a soldier in theater who he believes should be

1 redeployed to home station.

2 Without going through every other witness
3 the Defense [inaudible] here's what we learned from
4 their testimony.

5 Number one: The command is due diligence
6 before deployment. The brigade used the army's
7 criteria and guide to determine whether to deploy
8 soldiers.

9 Number two: People's opinions on what
10 happened were influenced by hearsay, rumor and
11 innuendo. He opined to the Secretary of the Army 1516
12 investigation team without the benefit of facts.

13 Number three: The unit wasn't perfect. No
14 unit in the army is perfect, but they did the best they
15 could with the information available to them at the
16 time. When asked, witnesses stated that the Ten
17 Mountain was no different than any other deployed
18 combat team.

19 Number four: The army is not in the
20 business of banning soldiers because of mental health
21 issues. It does not do the army any favors and it

1 certainly doesn't do society any favors. Seeking
2 mental health treatment even in the military
3 intelligence community is not an impediment to serving
4 in the most junior soldiers.

5 Five, the command managed risk using the
6 information they had at the time.

7 Six: Derogs are for serious allegations of
8 misconduct, not for soldiers who have anger issues, who
9 are struggling with their identity or who are gay.

10 Seven: Captain Lens (phonetic) took over
11 for Major Clausen's brigade in January 2010. He's a
12 top tier officer who ran the S2 shop effectively.
13 Although he's not immediately told of the picture,
14 Major Sergeant Atkins sent -- that was sent to Major
15 Sergeant Adkins on 24 April, 2010. His knowledge of
16 that picture on 24 April would not have prevented PFC
17 Manning's crimes and we know that because all the
18 information that was stolen and compromised from the
19 SIPRNET in this case happened before 24 April, 2010.

20 Eight: Major Clausen was removed as
21 brigade S2 because he had difficulty communicating

1 intelligence work to the commander. There were no
2 issues with respect to his management or personnel
3 management scheme.

4 Nine: Allowing NCYCs to manage enlisted
5 personnel issues is not uncommon. It's the army
6 standard. Although particular soldiers felt that they
7 should have more oversight of administrative matters,
8 the S2 shop was organized to maximize personnel
9 contributing to the main effort providing timely
10 intelligence to ground units.

11 Ten: Members of the command team had
12 personal interaction with PFC Manning including the
13 brigade commander for the deployment and the company
14 commander during mid tour leave. Neither commander had
15 any reason for concern. Members of PFC Manning's unit
16 saw him every day. They reached out to PFC Manning and
17 included him in activities. Other than occasional
18 outbursts of anger, there was nothing out of the
19 ordinary. The only exception to that is when PFC
20 Manning attacked Ms. Showman. After PFC Manning
21 attacked Ms. Showman On 8 May 2010 he was removed from

1 the SCIF and he was sent to work in the supply room and
2 the commander initiated a derog.

3 In this case, Your Honor, it also helps
4 with the timeline events the Defense deems so
5 important. In the summer of 2009, PFC Manning got
6 angry after being counseled for missing PT. Then on
7 two occasions in December 2009 PFC Manning again got
8 angry after being counseled, once for losing his room
9 key and once for being late to work and [inaudible] 20
10 December, 2009 had a temper tantrum.

11 Around this time, Master Sergeant Atkins
12 chose PFC Manning as one of the first soldiers to go on
13 mid tour leave. You gets a break, reset and rest for
14 the rest of the deployment. Perfectly appropriate
15 response to someone who seems stressed by their first
16 deployment.

17 The next incident doesn't happen until 24,
18 April 2010 when PFC Manning sends a picture to Master
19 Sergeant Atkins and, Your Honor, think about all the
20 evidence you saw with respect to PFC Manning's SIPRNET
21 activity between 15 February, 2010 and 24 April, 2010.

1 There were no questions raised with respect to whether
2 PFC Manning could be trusted with classified
3 information. Manning's outbursts were anger related
4 and in response to being canceled. He didn't like
5 being corrected. After PFC Manning physical assaulted
6 Ms. Showman, he was immediately removed from the SCIF
7 and derog was initiated.

8 The point of all of this, Your Honor, is
9 that the [inaudible] would have been something
10 different when we're looking at a set of circumstances
11 after the fact. But the bottom line is that nothing
12 was uncommon. It was not uncommon to deal with temper
13 tantrums with something less than the immediate
14 initiation of a derog. Master Sergeant Atkins clearly
15 cared about his soldiers and [inaudible] record are not
16 the smoking guns in this case. He generated them to
17 augment the picture of a behavioral health specialist.
18 He wanted PFC Manning to succeed and finish his
19 [inaudible]. And the behavioral health specialist
20 never indicated that there were larger problems. Aside
21 from when Captain Worsley finally diagnosed him with

1 gender identity issues.

2 The army demands a senior non-commissioned
3 officers use every tool in their tool kit before
4 cutting some [inaudible] with the soldier. Master
5 Atkins used his experience, his personal interaction
6 with Manning over the course of his time while in Iraq
7 and applied his best judgment of PFC Manning based on
8 the evidence in front of him.

9 Master Sergeant Atkins didn't take the road
10 less traveled. His choices in this case did not make
11 all the difference and they were not a death sentence
12 for the protection of classified information.

13 The focus should remain squarely on PFC
14 Manning, Your Honor. This case is about him, what he
15 did, and that leads us to the doctors. Captain Worsley
16 and Commander Moulton as witnesses and experts are only
17 as good as the information provided to them. In this
18 case, their opinions and apparent insight were based,
19 in large part, on what was related to them by PFC
20 Manning and the evidence shows that PFC Manning is an
21 unreliable narrative at best.

1 Captain Worsley made a number of statements
2 that were flatly contradicted by the facts and evidence
3 in this case. It was clear from the unit witnesses
4 that PFC Manning was not alone. There were people who
5 tried to include him in activities, people that cared
6 about him. This wasn't a hostile environment as
7 Captain Worsley stated.

8 Again, you now have the E-mail from PFC
9 Manning to Tyler Watkins on 28 November, 2010 admitted
10 as part of rebuttal case. In it PFC Manning says: "I
11 was very busy, indeed, but I still had the chance to
12 have dinner among good friends I came out to. I didn't
13 even have to come out to them, they just called me out
14 on it."

15 These are PFC Manning's own words, Your
16 Honor. They confirm what you saw in the Adrian Lamo
17 chats. There were other people -- gay people in the
18 unit, people that were quite open about it and he was
19 open with them about his sexuality.

20 And think about the SIPRNET searches PFC
21 Manning conducted on 28 November, 2009, Your Honor.

1 That was the first time he searched for an item that
2 also appeared on the Wikileaks most wanted list.

3 Perhaps the most troubling aspect of Captain
4 Worsley's testimony that should stick out in your mind
5 is when Captain Worsley talked about PFC Manning's
6 break-through, break-through when PFC Manning was
7 referred by the command after hitting Showman on 8 May,
8 2010. Captain Worsley testified that PFC Manning
9 finally felt more comfortable. The secret was out
10 about his gender identity. It was a big relief. PFC
11 Manning appeared more positive. Okay, that's fine.
12 Order -- the fact that six days later PFC Manning
13 steals the E-mails and personal identify information of
14 76,000 service members. PFC Manning's gender dysphoria
15 was causing extreme stress for PFC Manning, stress that
16 was impairing his judgment causing him to act out and
17 leaking classified information. Why didn't he stop?
18 If the tour was related in any way, why didn't he stop?

19 Now, you heard from Commander Moulton and
20 ultimately his testimony falls flat. As part of his
21 rebuke, Commander Moulton interviewed PFC Manning over

1 a period of time, about a year after his arrest. And
2 PFC Manning knew why he was meeting with Commander
3 Moulton. He's a smart guy. Commander Moulton
4 diagnosed PFC Manning with gender dysphoria. He had
5 noted that he had a narcissistic personality trait. No
6 amount of narcissism would impair the normal
7 development of someone in the post adolescent stage of
8 their life.

9 Captain Moulton testified that PFC Manning
10 was under severe emotional distress at the time of the
11 offenses and stress impaired his thought process,
12 though Commander Moulton never commented on the fact
13 that stress could easily have been [inaudible] of
14 knowing deliberate violation of the law over the course
15 of six months.

16 What Commander Moulton was unable to
17 satisfactorily explain what any of this has to do with
18 stealing and transmitting classified government
19 information over the course of six months.

20 Post adolescent idealism as Commander Moulton
21 admitted, is common in most 18 to 24 year olds.

1 Commander Moulton may have [inaudible] the charge
2 sheet, Commander Moulton did not have the benefit of
3 evidence in this case. What he would make of a theft
4 of 76,000 E-mails after PFC Manning has, in Captain
5 Worsley's words, finally been relieved of the burden?
6 If Commander Moulton had access to that information,
7 how would it change his opinion.

8 Commander Moulton testified that PFC Manning
9 offered during the reviews that PFC Manning's friend,
10 Danny Clark, was unavailable to him during his
11 deployment. And PFC Manning apparently said he hadn't
12 been to reach Danny Clark, a friend who he really
13 looked up to that might have prevented the acts.

14 What the court now has the benefit of, Your
15 Honor, is evidence that PFC Manning's statements to
16 this effect are completely false. PFC Manning and
17 Mr. Clark were in E-mail contact and they were chat
18 buddies. Although the forensic examiner was only able
19 to find remnants of the chats with Clark, look at the
20 content. Mr. Clark is asking about the unit. They had
21 been in contact. He knows specific facts. These chats

1 were on the same day, 18 March, 2010 as chats between
2 PFC Manning and Julian Assange. Ask yourself if you
3 truly believe that Mr. Clark was unavailable to PFC
4 Manning. The bottom line is Commander Moulton's
5 opinions are only as good as the information provided
6 to him by the patient. In this case, the patient is
7 unreliable and inside the [inaudible] self-serve.

8 Ultimately, Your Honor, that's why you have
9 to divorce whatever issue PFC Manning apparently had
10 from the crimes in this case. The United States is not
11 disputing that PFC Manning may have been struggling
12 with his gender identity. The government's only
13 question is why that matters. What does that to do
14 with PFC Manning's crimes, his intent, his intentional
15 violation of the law, intentional violation of the law
16 on repeated occasions? Why does the solution create a
17 risk for everyone else? We can only what [inaudible]
18 and that's because they were people in the army then,
19 there are people now who are gay, who had strained
20 relationships with significant others. There are
21 people in the army now who might be struggling with

1 gender dysphoria. We take soldiers every day that are
2 the product of broken homes with alcoholic parents,
3 sometimes they're the victims of abuse. They join the
4 military for a better life. They join the military for
5 the GI bill. They join in the post adolescent stage of
6 their life and they believe they can change the world
7 for the better and that's true. When you're armed with
8 serving the country, you're contributing to something
9 larger than yourself. You're helping make the world a
10 better place.

11 Sometimes soldiers can become disillusioned
12 by war and sometimes soldiers become disillusioned by
13 Garrison rules. For every soldier PFC Manning didn't
14 get along with there were thousands of fellow soldiers
15 building schools, protecting civilians from sectarian
16 violence, contributing to humanitarian aid missions in
17 Pakistan and somewhere along the way PFC Manning forgot
18 that and it wasn't the military's fault, it wasn't the
19 command's fault, it wasn't because he saw something
20 horrible. It was because he had an agenda that was
21 clear from the SIPRNET searches for information related

1 to Wikileaks in late November 2009.

2 When the military would take care of our
3 fellow soldiers, you support the mission, you respect
4 the chain of command or we get out. In PFC Manning's
5 world, we do what we want without regard to
6 consequences. PFC Manning's thought process was
7 impaired by his agenda and his destructive world view.

8 There has been so hype about PFC Manning,
9 Your Honor, that in the end it doesn't matter. It
10 matters that he took an oath and he knowingly broke it.
11 He put others at risk through his deliberate actions
12 and he impacted the mission.

13 At certain points, Your Honor, the Defense
14 has tried to make this case about the amount of people
15 who had access to the SIPRNET. You heard good reasons
16 for that in the post 9/11 world. The
17 compartmentalizing of information, restricting
18 information sharing is not in the best interest of our
19 country. Soldiers, even soldiers with a grade of
20 B4 are going to continue to have access to the SIPRNET.
21 We're going to trust them because we need them and they

1 deserve to be trusted. And we have to be able to trust
2 people because the system is built that way. Our
3 systems are going to become more complex, not less. We
4 can take all the mitigation steps in the world, but the
5 bottom line is that there is no step we can take as a
6 nation, as a military, that's going to stop the
7 determined insider. Our system will always be
8 exploited in some way. But even if we set aside all
9 reason and commonsense and assume the U.S. government
10 is responsible for all this, where are all the other
11 PFC Mannings? They don't exist. Military intelligence
12 professionals go to work every day and use the
13 information available to them to do their jobs.

14 PFC Manning volunteered and he chose military
15 intelligence, yet he showed he didn't like taking
16 directions, he didn't like being criticized by his
17 peers or superiors and he would have react with temper
18 tantrums. These are not excuses. In the end, knowing
19 the United States government at 10 mountain couldn't
20 have seen this coming or expected it, Your Honor.

21 Your Honor, there are number of factors in

1 the case the government asks you to keep in mind, in
2 the forefront of your mind during deliberations.

3 First: You heard the word snapshot at
4 various points in this trial, Your Honor. We're
5 talking about the CIDNE information, the Department of
6 State information that may be true to some extent in
7 context.

8 The word snapshot is deceiving. Keep in mind
9 that the CIDNE information was current through
10 31 December 2009 being that it was transmitted to
11 Wikileaks within a month of its generation.

12 The same is true of the Department of State
13 cables, Your Honor. The cables stolen by the accused
14 were through the end of February 2010 when he began
15 downloading the first batch of the Department of State
16 on 28 March and if you look at what was in the
17 diplomacy databases, witnesses testified that the vast
18 majority of the cables contained in that database were
19 from 2005 and on. This was current information, your
20 Honor. Current information had more value and PFC
21 Manning knew that which is why he went back to the NCD

1 database on [inaudible] published in March and April.

2 Second, Your Honor, at the time PFC committed
3 the misconduct he was deployed to an active theater.
4 This crime spanned [inaudible]. Our operations in Iraq
5 may have been focused on the transition to Iraqi
6 control but that does not make what our military was
7 doing there any less dangerous. And with respect to
8 Afghanistan, combat operations were ongoing.

9 Outside of active theater, you heard
10 testimony related to kinetic and not kinetic activities
11 in other countries where the CentCom [inaudible]. And
12 compromised information in this case related to those
13 wars and revealed information related to other
14 operations. The United States asks that you keep that
15 in mind when you deliberate.

16 Third, the initial step in every one of PFC
17 Manning's crimes occurred while he was on duty working
18 in the SCIF as an intelligence analyst. Every day on
19 shift was a day he used to abuse his access to the
20 SIPRNET from November 2009 to May 2010. PFC Manning
21 decided that his time is better spent exploiting this

1 access rather than focusing on the most active and
2 dangerous threat facing the unit in their operating.

3 Fourth, PFC Manning abused a position of
4 trust. He should be held to a higher standard than
5 [inaudible] a mechanic who committed similar crimes.
6 On a day-to-day basis, he used the type of information
7 comprised. He signed multiple non-disclosure
8 agreements. He received training as an intelligence
9 analyst, training related to the nature of the threat
10 or risks in significantly more detail than any other
11 MOS in the army. And he acknowledged that certain
12 points of harm could result in disclosure of
13 information. He repeatedly took matters of national
14 security into his own hands abusing the special trusts
15 our government places in the hands of intelligence
16 analysts and those with security clearances.

17 Fifth, the volume of information compromised
18 in this case almost defies belief. It is unprecedented
19 in our nation's history. As we are relying more and
20 more on databases and information systems, it's
21 important that the court account for the role that the

1 volume of information played in the crisis that
2 followed with the public disclosure of information PFC
3 Manning stole.

4 Six, Your Honor. After PFC Manning was
5 removed from the SCIF he used access to unclassified
6 systems to continue his misconduct. He was humbled,
7 but not deterred in any way.

8 Finally, Your Honor, PFC Manning's case and
9 extenuation and mitigation rests, in part, on what the
10 Defense believes were failures of the command to police
11 the unit or take appropriate steps to protect the
12 systems or information.

13 With respect to security vulnerabilities, it
14 was clear from reading the chat logs that PFC Manning
15 was well aware of the weaknesses in the system and he
16 took deliberate advantage of those weaknesses to commit
17 his crimes. Included in this was his attempt to bypass
18 security mechanisms on his SIPRNET computer. He wanted
19 anonymous access. His extenuation is really
20 aggravation, Your Honor. PFC Manning was the
21 determined insider.

1 The United States asks you to sentence PFC
2 Manning to forfeit all pay allowances to pay the United
3 States a fine of \$100,000 to account for the resources
4 expended by the United States military risk of harm; to
5 reduce PFC Manning to Private E1, to confine him for no
6 less than 60 years and to dishonorably discharge him
7 from the service.

8 There is value in deterrence, Your Honor.
9 This court must send a message to any soldier
10 contemplating stealing classified information.
11 National security crimes that undermine the entire
12 system must be taken seriously. Punish PFC Manning's
13 actions, Your Honor. Think about the volume of
14 information in this case. More than 700,000 records
15 complete and partial databases. [inaudible] we'll
16 never seen a number like this again.

17 Think about the initiatives and work that
18 were brought to a halt by what he did. Think about the
19 military and diplomatic relationships that were
20 severed. Think about the impact of the commission. If
21 you violate the trust of your superiors, if you're

1 deployed, your actions -- as soldiers, you serve with a
2 risk. If you act on your own narrow self-interest, if
3 you disclose information to our adversaries, if you
4 betray your country, you did not deserve the mercy of a
5 court of law. PFC Manning took an oath. He knew what
6 he was doing. The army didn't abandon PFC Manning.
7 PFC Manning abandoned the army. The army didn't betray
8 PFC Manning, PFC Manning betrayed the army. Thank you.

9 THE COURT: Defense, do you want to take a
10 brief recess before beginning?

11 MR. COOMBS: Yes, Your Honor. I need to
12 set up.

13 THE COURT: All right. How long do you
14 think it would take?

15 MR. COOMBS: We can start right at 14:00.

16 THE COURT: All right. The court is in
17 recess until 14:00 or 2:00.

18 THE CLERK: All rise.

19 (There was a recess taken at 1:48 and the
20 trial resumed at 2:00 p.m.)

21 THE CLERK: All rise.

1 THE COURT: Please be seated. Let the
2 record reflect that all parties present at the last
3 recess are again present in court. Mr. Coombs, are you
4 ready?

5 MR. COOMBS: Yes, Your Honor.

6 THE COURT: Proceed.

7 MR. COOMBS: Your Honor, the argument by
8 the government today is interested in one thing, one
9 thing only, and that's the punishment. Argument does
10 not take into account the individual circumstances of
11 PFC Manning or his offenses. When you argue for 60
12 years, when you argue for that based upon the facts in
13 this case, it's clear they're only interested in
14 punishment.

15 Our system has evolved from a punishment
16 only viewpoint. We try to balance not only the needs
17 of the service and the unit and the needs of the army,
18 good order and discipline with the needs of the
19 individual soldier. And it's not a punishment only
20 system. As the court knows from your vast experience,
21 both parties are given the opportunity to tell you or

1 at least argue to you what they believe should be an
2 appropriate sentence and oftentimes that doesn't really
3 help the court all that much and the reason why is both
4 sides are very biased. Somebody sees something in the
5 60 year realm and somebody over here might see
6 something as just let him go home today and
7 understanding that that is a difficult thing for the
8 court to hear and then incorporate that into what
9 should be an appropriate sentence.

10 Then, today, what the Defense is going to
11 try to do, what I'm going to try to do is to give you
12 an argument for an appropriate sentence that recognizes
13 that unbiased, but tries to do it in a very factual way
14 that gives the court something to actually look to when
15 making that decision. And, obviously -- and the court
16 well knows this, when you start off 1001(g) is what our
17 recognized set of principles are for why we would
18 sentence somebody and how we would come to an
19 appropriate sentence. And with a judge alone
20 determination for that, this is obviously one of the
21 more heavier determinations that a court would make.

1 So I'd like to take a moment now to go
2 through what the Defense believes are individual facts
3 that can fit within our 1001(g) to help the court.

4 For starters, PFC Manning's age and rank.
5 PFC Manning was 21 years old at the time that he
6 deployed. During the deployment, he turned 22 in
7 December. He had limited experience in life and he
8 also had very limited military experience and the
9 decisions that he made in this case during that
10 deployment were a product of his limited experience and
11 limited knowledge. As Captain Moulton or Commander
12 Moulton testified, PFC Manning was also in a
13 post-adolescent idealism stage.

14 Now, it's true that that's not that
15 atypical. That's actually a good thing that it's not
16 that atypical because, in that stage, that's when
17 individuals believe they can make a difference in this
18 world.

19 As Dr. Moulton (sic) testified, that is
20 what explains a lot of the college level activism.
21 That is what explains people who are a part of all

1 grassroot organizations that are designed to change the
2 world and that's exactly the position that PFC Manning
3 was in. And he had pure intentions at the time that he
4 committed his offenses. That's something that the
5 government has never argued that he didn't. He clearly
6 had pure intentions and we know that from his chat
7 conversations with Adrian Lamo.

8 At that time, PFC Manning really truly
9 genuinely believed that this information could make a
10 difference. And more importantly, he believed that the
11 information couldn't be used to harm the United States
12 at the time. The position of trust, something that the
13 government did argue, which is correct, PFC Manning was
14 in a position of trust. He had signed non-disclosure
15 agreements. He was placed and trained in a position
16 that entrusted him with classified information and with
17 a sense of duty and obligation not to disclose that to
18 anyone who did not have authorization to see it.

19 But there was another violation of trust
20 and the trial counsel tried to make it seem as if the
21 military and the army, they have no responsibility in

1 this conduct at all. And here, that would be ignoring
2 the facts of this case.

3 We do have a unit -- there's another issue
4 of trust and we trust that our command will enforce
5 standards. That's what we trust. When we give the
6 army our sons and daughters, we trust that they will
7 have a leadership that will set a standard, enforce
8 that standard and, if somebody is not living up to that
9 standard, take corrective action.

10 In this instance, the memorandums for
11 record are the smoking gun in this case. It is the
12 smoking gun in this case because you have a leadership,
13 a master sergeant, who is aware of the issues of PFC
14 Manning, very aware of them.

15 When you read each one of those memorandums
16 for record, they may be dated at different times both
17 in December, April and May, but they talk about conduct
18 both pre-deployment and then early deployment and then
19 going into the April timeframe.

20 What is important here is Master Sergeant
21 Atkins was aware of this, and yet he didn't do anything

1 to notify those people who we entrust with the
2 statutory obligation to lead and that is the command
3 whether that be Captain Freeburg or his predecessor, a
4 person who actually would make a determination is PFC
5 Manning the type of soldier, based upon what he's
6 experiencing, that we want to be in S2 section. Should
7 he be redeployed? Should he deploy at all?

8 Determinations that were way above Master Sergeant
9 Atkins' pay grade or, for that matter, the S2's pay
10 grade should have been made by a command, a commander
11 and yet was not. And that had consequences and when
12 you look into the December of 2009 incident, again, to
13 clarify that or to try to explain that is just simply a
14 disruption among a counseling session with Specialist
15 Padgett is to minimize what occurred there.

16 Chief Ehersman felt the need to restrain
17 PFC Manning. He thought PFC Manning was going towards
18 the weapons rank. Specialist Padgett said "I stepped
19 in between PFC Manning and the weapons rack. I didn't
20 want to him to get to a weapon."

21 Whether or not he was going for a weapon is

1 almost immaterial. The fact that two members of the
2 unit thought that and when you see that display, again,
3 coupled with everything that the unit knew about him
4 before and multiple soldiers testified about knowing
5 that PFC Manning was struggling with issues and Master
6 Sergeant Adkins was fully aware of it at the time.
7 That is when corrective action should have been done.
8 That is where, especially when you're dealing with a
9 MOS, a military specialty, where you have access to
10 classified information basic, very basic information
11 assurances practices should have required, at the very
12 least, a commander to make a determination should I do
13 a derog or not. Should I suspend his access to the
14 SCIF for a period of time, maybe move him somewhere
15 else that's a little less stressful?

16 But again, showing and highlighting the
17 failure to take basic actions that we would expect from
18 a member of the chain-of-command, Master Sergeant
19 Adkins walks into a supply room and he sees PFC Manning
20 on the floor rocking back and forth. He's got a knife
21 in front of him and he's got the words "I want" etched

1 into a chair. Clearly he did that because you see the
2 vinyl remnants also at his feet and Master Sergeant
3 Adkins says he talks to him for an hour and PFC Manning
4 is definitely distraught at that point. He's dealing
5 with very significant issues and I asked Master
6 Sergeant Adkins why in the world at that point we just
7 PFC Manning up, escort right to mental health, notify
8 the command-of-command, take the basic steps that we
9 would expect of our leadership? Why wouldn't you do
10 that? And his response "there is work that needed to
11 be done." And that's when he put PFC Manning back to
12 work and the court knows what happened later that day,
13 he assaulted Special Showman.

14 Granted, the chain-of-command shouldn't be
15 put at their feet of envisioning a disclosure to
16 Wikileaks, granted. That may be something that they
17 could not have predicted. But when you have a soldier
18 who is symbolically and actually crying for assistance,
19 then that requires a chain-of-command to take some
20 action. Certainly they could have predicted it, that
21 you would have some conduct that would warrant UCMJ

1 action. And the failure, the utter failure to take any
2 action at that point is inexcusable. So there was a
3 violation of trust. PFC Manning violated his duty of
4 trust, yes. But that is tempered by the
5 chain-of-command's conduct is impact or the impact
6 based upon these offenses.

7 What the court has heard, and we've heard a
8 lot of evidence, that the majority of what we heard
9 from impact is temporary certainly in nature. The idea
10 of a long-term impact is speculative at best. The
11 impact that was discussed was how they initially dealt
12 with the leak and certainly that is an impact, the cost
13 of setting up the information review task force, the
14 actions by the Department of State in addressing what
15 they perceived potential problems.

16 Again, those are the legitimate impacts.
17 PFC Manning accepts responsibility for those impacts
18 and the Defense has not tried to short away from those
19 impacts. But the idea that these impacts are ongoing
20 or continuing or getting worse as time goes by is to
21 ignore reality. And the reality of the situation is

1 that these -- this long-term impact is, again,
2 something that is in certain witnesses' testimony,
3 again, speculative. But they're testifying from a
4 position of the Department of State wanting to say
5 that, oh, we don't think X is happening because of
6 these leaks, but they can't truly tie what they believe
7 to have occurred with these leaks. They make a guess.

8 From a military standpoint, we have,
9 certainly, operations that were impacted, but that's
10 not to say that any of our operations wouldn't have
11 been impacted by other things that occurred immediately
12 thereafter. And where these operations were impacted,
13 we're dealing with a very volatile area where things
14 change rapidly. So certainly there was some impact,
15 but the idea that this long-term thing, again, is
16 speculative at best.

17 And the risks. There were risks. That's
18 not to minimize the fact that there weren't risks from
19 these leaks. Whenever you're talking about over
20 700,000 pages of documents, something that PFC Manning
21 could not have read in its entirety, certainly there

1 are risks. But you also have to look at what was his
2 genuine belief at that time and we know that from the
3 Lamo chats more so than anything else.

4 The SigActs are things that happened in the
5 past. He was very familiar with those and more than
6 one witness testified as to kind of a historical
7 record. Several government witnesses tried to say he
8 gave away our playbook, but that's not really accurate.

9 When you look at these SigActs, they talk
10 about things that happened in the past almost as if you
11 are reading a newspaper of a past account. They're not
12 future looking. They're not talking about changes.
13 They're not talking about how we're going to change our
14 TTPs or how we're going to adjust certain things and we
15 know from certain witnesses' testimony that these
16 SigActs didn't have an impact because we didn't change
17 anything.

18 But then you also have the cables and,
19 again, looking to the Lamo chats, that would give you
20 an insight into PFC Manning's mind at that time as
21 well. He indicated "I wasn't so sure about these" and

1 then there's a link to that which the link goes towards
2 what is a SIPDIS cable and the court has the benefit of
3 the Department of State regulation on what is a SIPDIS
4 cable. What type of information should go into a
5 SIPDIS cable? It's the type of information that can be
6 shared across the interagencies. It's the type of
7 information that you would want to share with well over
8 a million people. Certainly not our deepest darkest
9 diplomatic secrets. Not to say there wasn't potential
10 risk there, but these are not the type of secrets that
11 would be much more restrictedly held.

12 So, again, looking at the risks,
13 recognizing that there was some, then also looking at
14 his genuine belief at the time.

15 PFC Manning's acceptance and
16 responsibility. He pled guilty without the benefit of
17 a deal and admitted to the conduct that he said he did.
18 And this plea of guilty subjected him to the
19 possibility of 20 years at the time. Certainly he took
20 the very first step towards what we could say is
21 rehabilitation. He accepted responsibility. He

1 entered into over 58 stipulations of fact and
2 stipulations of expected testimony. And these
3 stipulations work out to well over -- well, in the
4 hundreds of pages. And if you just look at the
5 stipulations alone, that undoubtedly saved weeks if not
6 months from this trial which is a lot more time and
7 that saved the government time and money and effort.
8 He didn't have to do that, but he did.

9 Again, part of his acceptance of
10 responsibility, not minimizing his conduct. He waived
11 [inaudible] witnesses. That really only came to play
12 in sentencing, but he waived them for merits as well
13 and yet, you know, some of them still came. But,
14 again, trying to save the government time and money.

15 And all of that goes towards the goal of
16 rehabilitation. And our whole goal with rehabilitation
17 is to restore people to a productive place in society
18 and he has taken a substantial step towards that
19 through his plea, through his conduct throughout this
20 trial, through willing to stipulate with the government
21 to save them time and effort. He has proven that he is

1 an excellent candidate to be rehabilitated, to be
2 restored to a productive place in society. And society
3 has an interest in that happening. Society does not
4 have an interest in defining PFC Manning by his conduct
5 or defining PFC Manning by his upbringing. Society's
6 interest is in restoring this man to a productive place
7 and when you look at the reality of the situation
8 here -- again, not to minimize the risk, but the
9 reality of our situation as we stand here today, we are
10 out of Iraq, not in. We are on our way out of
11 Afghanistan. Guantanamo, if the president has his way,
12 will be closed. Diplomacy, we know, continues.

13 The Department of State made a point of
14 saying that this really kind of shows that we were good
15 at our jobs and the diplomacy is ongoing now.

16 As the Secretary of State or Secretary of
17 Defense testified or said, that this is not the type of
18 stuff that is the sky is falling type issues, that
19 diplomacy will continue, that countries will still deal
20 with us and that has happened in this case. Many
21 countries forgot about the Wikileaks. They moved on.

1 So, again, looking at the reality of the
2 situation and seeing then what the government wants to
3 give for something that, even at its best, when it's
4 classified, it would only be classified for 25 years
5 unless somehow it was extended. But many of the
6 things, when you look at them, all have an expiration
7 date of when they should no longer be classified and
8 the government wants to give him 60 years.

9 Another issue for the court to consider is
10 PFC Manning's emotional health at the time. Now, it's
11 clear he was dealing with a difficult issue and we
12 offered that difficult issue to explain context as to
13 what happened. Not to excuse it, not to minimize it,
14 but to explain what this young man was going through at
15 the time and it's important to note that despite the
16 government's belief that he had a whole bunch of great
17 friends, you heard testimony to the contrary, very
18 reliable testimony, that he was always by himself, that
19 he had the door pushed in his face literally and
20 figuratively, that he wasn't a person who had a valid
21 buddy that he was walking around with and there were

1 many red flags for the unit to see and to act upon and
2 any one of those things, certainly if they happened in
3 December of 2009, would have prevented PFC Manning's
4 conduct.

5 Even when you look at the emotional health
6 issues that came out through the testimony, the one
7 thing that rang true from the very earliest pieces of
8 information that we know, the Laura McNamara chats to
9 the very latest and that is Dr. Moulton and Adrian Lamo
10 chats is that PFC Manning cared about human life. He
11 was a humanist. Perhaps his biggest crime was that he
12 cared about the loss of life that he was seeing and
13 couldn't ignore it and was struggling with it.

14 When we look at what his goals were when he
15 started out his deployment, "I want to do everything I
16 can to help my command to make sure that every soldier
17 gets back, every marine, every local contractor gets
18 back home safely and importantly, within that, I want
19 to make sure that even the local nationals get home
20 safely." That was the burden that he placed upon
21 himself and when we talk about disillusion with war,

1 really what we're talking about is helping humanity,
2 looking at something and saying I just can't believe
3 this is what we need to do.

4 So when he releases those SigActs that we
5 see, he thinks that those are the most important
6 documents of the 21st century revealing the fog of war
7 or lifting the fog of war showing the true nature of
8 21st century asymmetric warfare. When he writes those
9 things, Dr. Moulton is telling the court that he truly
10 believes -- he truthfully believes that this could end
11 the war in Iraq, it could end the war in Afghanistan,
12 and it would even -- when the public looks at this,
13 takes it into account, studies it, would even question
14 the need of future wars.

15 As naive as that belief may be, it was a
16 sincere belief and this is the person the government
17 wants to give 60 years. And at the end of the day,
18 that's the government's argument, he did something
19 wrong, give him 60 years, throw away his life, he can
20 spend the rest of his life in jail. Long after the
21 memory fades from this argument here today, long after

1 any sort of possible damage or anyone remotely believes
2 that there's a possibility of damage from this
3 information phase, long after this information probably
4 is no longer even classified -- that's still
5 classified, long after that day has passed, the
6 government wants PFC Manning rotting in a jail cell.
7 That's what they've asked this court to do and
8 envisioning the possibility of the government argument,
9 it's very easy to say a certain of years. It rolls off
10 the tongue, 60 years. It doesn't take long to say it.
11 It's only when you start to put that into context that
12 you truly understand how wrong would it be to give a
13 sentence like that. 60 years is almost three times the
14 length of PFC Manning's life. It's longer than any of
15 the parties here today have been alive. It is, I have
16 a good authority. But, again, when I look at 60 years,
17 to put it into context in historical times when you
18 look back at what occurred 60 years ago -- I envisioned
19 60 years as being an argument. I did envision the
20 possibility of 40 years.

21 In 40 years, we had man's first footsteps

1 on the moon. Neil Armstrong, first step on the moon 40
2 years ago. The Supreme Court decided Roe v. Wade 40
3 years ago. The Vietnam war was just about ending. We
4 were pulling our trips out. President Nixon was our
5 president 40 years ago and he was involved in Watergate
6 at the time. That was 40 years ago. You have to add
7 another 20 in order to get to where the government
8 wants you to be.

9 30 years ago cellphones were first
10 introduced to the American public. ET was the number
11 one movie in America. There's a young Drew Barrymore.
12 Margaret Thatcher was elected as prime minister of the
13 U.K. That's 30 years ago. Think about that for a
14 moment, how long ago that seems.

15 20 years ago federal agents raided the Waco
16 compound in Waco, Texas. Sleepless in Seattle was the
17 number one movie in America. The very young President
18 Clinton and his wife, Hillary Clinton, going to the
19 White House for the very first term. That's 20 years
20 ago.

21 10 years ago, Operation Iraqi Freedom

1 results in the fall of Saddam's regime. Private Lynch,
2 among other soldiers, are rescued after being captured
3 by the enemy. President Bush announces on the U.S.S.
4 Abraham Lincoln the end of major combat in Iraq and the
5 space shuttle Columbia disintegrates upon reentry into
6 the earth's atmosphere killing all seven astronauts
7 aboard. That was 10 years ago.

8 Again, when you think about the time of
9 60 years, it's 1953 in my estimation, what was
10 happening in 1953, that's how long the government wants
11 PFC Manning to sit in jail and that would be wrong,
12 Your Honor. The appropriate sentence in this case
13 would be a sentence that takes into account all facts
14 and circumstances that you're aware of that it gives
15 PFC Manning an opportunity to be restored to a
16 productive place in society. It doesn't rob him of his
17 youth. It gives him the opportunity, perhaps, to live
18 the life he wants in the way that he would like,
19 perhaps find love, maybe get married, maybe have
20 children, to watch his children grow and perhaps have a
21 relationship with his children's children. That would

1 be an appropriate sentence.

2 When you look at PFC Manning, the
3 government has labeled him as a trader, as an insider.
4 Others have labeled him a hero. Either one of those
5 are overgeneralizations. They ignore who he is as a
6 person and, unlike most court-martials, this court has
7 had a year and a half to see the conduct of PFC
8 Manning. You've heard from him on multiple occasions
9 and you have undoubtedly seen what the Defense has
10 seen, what I have seen over the last three years.

11 PFC Manning is a lot of things. He is a
12 young man. He's a very intelligence man. He's a
13 little geeky at times, but he's caring, he's
14 compassionate, he's respectful and he's a young man who
15 certainly, at this time, was, in fact, young, was, in
16 fact, naive as to the second and third effects, but
17 certainly was good intentioned. And this young man now
18 sits before you, Your Honor, three years wiser, three
19 years of being in confinement and some of that
20 confinement, as the court has determined was unlawful
21 and that brings up the other thing that he is. He is

1 resilient.

2 Where others might have broken, he didn't.
3 And his resilience is something that would also make
4 him a prime candidate to be rehabilitated, to be
5 restored to a productive place in society. This is a
6 young man who is capable of being redeemed. We should
7 not throw this man out for 60 years. We should not rob
8 him of his youth.

9 Your Honor, the Defense requests that you,
10 after considering all of the facts, in this case,
11 adjudge a sentence that allows him to have a life.

12 Thank you, Your Honor.

13 THE COURT: All right. Before I recess the
14 court, I would like to go over the post-trial Appellate
15 rights advice.

16 I'm looking at what has been marked as
17 Appellate Exhibit 579 consisting of five pages, dated
18 15 July, 2013.

19 PFC Manning, look at the back page there.
20 Is that your signature?

21 THE WITNESS: Yes, ma'am.

1 THE COURT: Mr. Coombs, has the Defense
2 advised PFC Manning orally and in writing of his post
3 trial appellate rights?

4 MR. COOMBS: We have, Your Honor.

5 THE COURT: PFC Manning, did your defense
6 team explain your post-trial and appellate rights to
7 you?

8 PFC MANNING: Yes, Your Honor.

9 THE COURT: Did they explain what matters
10 you may submit to the convening authority before he
11 takes action under RCM 1105 and 1106?

12 PFC MANNING: Yes, Your Honor.

13 THE COURT: Did your defense team explain
14 to you that under those rules, RCM 1105 and 1106, you
15 may submit any matters to the convening authority to
16 include but not limited to personal letters and
17 documents, letters of documents from other people,
18 requests for a deferment and waiver of forfeitures and
19 any other matter that you want the convening authority
20 to consider before taking action in your case?

21 PFC MANNING: Yes, ma'am.

1 THE COURT: You understand it's your
2 responsibility to keep in touch with your defense
3 counsel and let them know your desires in this regard?

4 PFC MANNING: Yes, ma'am.

5 THE COURT: Do you understand that if your
6 defense counsel can't find you, it will be difficult
7 for them to know what to submit to the convening
8 authority before he takes action?

9 PFC MANNING: Yes, ma'am.

10 THE COURT: Now, if your defense counsel
11 tries to contact you but is not successful, do you
12 authorize your defense team to submit diplomacy matters
13 on your behalf as they deem appropriate?

14 PFC MANNING: Yes, Your Honor.

15 THE COURT: Do you questions about your
16 post-trial and appellate rights?

17 PFC MANNING: No, ma'am.

18 THE COURT: Which counsel will be
19 responsible for post-trial actions in this case and
20 upon whom the staff and advocates post-trial
21 recommendations will be served?

1 PFC MANNING: Mr. Coombs, Your Honor.

2 THE COURT: Is that correct?

3 MR. COOMBS: That is correct, Your Honor.

4 THE COURT: Now, does either side at this
5 point have a number of pretrial confinement days that
6 is current?

7 MR. FEIN: No, ma'am.

8 THE COURT: Can we have that, then...

9 MR. FEIN: We can have it for you tomorrow
10 morning, ma'am.

11 THE COURT: We'll reconvene court tomorrow
12 morning.

13 Is there anything else we need to address
14 before we recess the court?

15 MR. COOMBS: No, Your Honor.

16 MR. FEIN: No, ma'am.

17 THE COURT: All right. Court is in recess
18 until 09:50 tomorrow morning.

19 (Court was adjourned at 2:33 p.m.)
20
21

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